

## **RESPONSE TO OFFICE ACTION**

### **A. Status of the Claims**

The claims are amended herein and presented herein for reconsideration. The Office is authorized to deduct any additional claim fees due in connection with the amendment from the deposit account of Applicants' representative as set forth above.

### **B. Claim Objections**

(1) The Action objects to claims 3-4 as not further narrowing the claims from which they depend. Applicants traverse but note that the claims have been canceled herein and thus the objections are moot.

(2) The Action objects to claims 10 and 18 as being in improper dependent form. Applicants previously noted that the Board of Patent Appeals already found an essentially identical rejection to be without merit, yet the Action states that because the Decision was not published it is not persuasive.

Applicants continue to traverse, as the fact that the Decision was not published has no bearing on whether the objection has merit, which the Board of Patent Appeals has already decided it does not. Nonetheless, to avoid the delay and expense that would be necessary to appeal the rejection and because the objection is of a non-substantive nature, the claims in question have been amended herein to independent form. The objection is thus moot and withdrawal thereof is thus respectfully requested.

### **C. Rejection of Claims Under 35 U.S.C. §112, Second Paragraph**

The Action rejects claims 20 and 25 under 35 U.S.C. §112, second paragraph, as being indefinite for reference to a "plurality of paired chromosomes" and related

language. Applicants respectfully traverse but note that the claims have been amended herein to remove the language in question. The rejection is thus believed moot and withdrawal thereof is thus respectfully requested.

**D. Rejection Under 35 U.S.C. §102(b)**

The Action rejects claim 24 as anticipated by references said to teach some of the traits of the claimed variety. In response Applicants note claim 20, upon which claim 24 refers back to, has been amended to specify that the converted plant of corn variety I071535 produced comprises the referenced genetic locus that confers the new trait and wherein the plant otherwise comprises the traits of variety I071535. It is therefore clear that the claimed plant comprises the new trait and otherwise comprises the traits of variety I071535. The novelty and nonobviousness of variety I071535 has already been acknowledged and thus the rejection is believed moot. Withdrawal of the rejection is thus respectfully requested.

**E. Conclusion**

This is submitted to be a complete response to the referenced Office Action. In conclusion, Applicant submits that, in light of the foregoing remarks, the present case is in condition for allowance and such favorable action is respectfully requested.

The Examiner is invited to contact the undersigned at (214)259-0931 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

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